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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91207836
Party	Plaintiff Volvo Trademark Holding AB
Correspondence Address	LEIGH ANN LINDQUIST SUGHRUE MION PLLC 2100 PENNSYLVANIA AVENUE, NW WASHINGTON, DC 20037-3202 UNITED STATES tm@sughrue.com, llindquist@sughrue.com
Submission	Opposition/Response to Motion
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Date	12/11/2014
Attachments	H00124OppositiontoMotiontoExtendResponseDateswithDeclarationDecember1 12014.pdf(567167 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Volvo Trademark Holding AB,

Opposer,

v.

Wolvol Inc.,

Applicant.

Opposition No.: 91207836

OPPOSITION TO EXTEND RESPONSE DATES

Opposer, by its attorney, hereby opposes Applicant's motion to extend response dates.¹

Background

The trial dates in this proceeding, as reset, have been known to the parties since August 28, 2014. The trial dates were reset on Opposer's motion for an extension. Applicant opposed that motion and advised that "This proceeding is threatening Applicant's business and Applicant will be prejudiced by the requested extensions and delay is not reasonable. Applicant's employee does not require 90 days to make him/herself available in this proceeding that Opposer initiated." TTAB Docket No. 16.

At the time Applicant's filed its opposition to Opposer's motion to extend the trial dates, Applicant knew that Opposer's testimony period would fall from November 2, 2014 to December 1, 2014 and that a testimony deposition on written question was a possible avenue for trial evidence. Applicant further knew that if the motion to extend was granted, Applicant's testimony period was

¹ To date, Opposer has not received a service copy of the Motion to Extend Response date. Opposer requests that the Board order the parties to send courtesy copies of filings and paper via email. Opposer obtained a copy of the motion by monitoring TTABVUE.

to run January 1, 2015 to January 30, 2015. Applicant has never indicated that these dates are problematic.

On October 17, 2014, Opposer served its pretrial disclosures which identified Monica Dempe, among others, as a possible deponent to be deposed during Opposer's assigned testimony period.

On November 12, 2014, Opposer filed its Notice of Testimony Deposition on Written Questions. It served the Notice, Questions and Exhibits on counsel for Applicant via courier. Applicant's counsel signed for that package on November 14, 2014 at 1:48 pm. Under the rules of practice, Applicant was to provide cross questions, if any, by December 7, 2014.

On November 20, 2014, Applicant's counsel contacted the undersigned to seek consent to a 60-day extension of time to serve cross examination questions. The undersigned indicated that 60 days was an extended period but would confer with Opposer regarding the request.

On November 24, 2014, the undersigned advised Applicant's counsel that Opposer would consent to a 10-day extension of time if Applicant's counsel was willing to agree to certain conditions regarding the testimony deposition on written questions, namely the location of the deposition, before whom the deposition was to be taken, and the signing of the transcript. The undersigned requested that the parties agree to service via email but to maintain the five day mailing rule. Applicant's counsel did not respond to that email. Applicant's motion followed.

Applicant's Motion

Applicant claims that Opposer denied Applicant's request for extension. As seen above, Opposer did not deny Applicant's request for a consent. Applicant's motion contains an error (at best).

Moreover, Applicant never requested that Opposer consent to a 90-day extension of time. Applicant sought a 60-day extension of time. Furthermore, Applicant seeks an unprecedented time to **respond**. Opposer's earlier motion for a 90-day extension of time was for all trial dates; there was no pending motion or other paper/filing to which a response was required. Here, Applicant is seeking an extension of a deadline to respond.

Applicant also complains that the exhibits to the deposition transcript are a "new production". Exhibits to depositions are not a production. Opposer responded to Applicant's discovery and served its objections and such responses and objections to Applicant's document requests were served and dated July 3, 2014. Applicant has never complained about those responses.

Applicant's 90-day request for an extension of time to serve cross questions in a trial testimony deposition on written questions is unheard of. This is not a discovery deposition on written questions. Applicant has been aware of the trial schedule since August 28, 2014. Applicant has previously advised that it does not need 90 days to make him/herself available in this proceeding.

Even if Applicant is in its holiday season, 90 days is excessively long. If Applicant's request is granted, Applicant will not need to serve cross questions until March 6, 2014. This is 110 days to review a testimony deposition on written question. That is almost 4 times as long as a party's assigned testimony period.

In short, Applicant seeks an unreasonable time within which to prepare cross questions to a testimony deposition on written questions. The only explanations for such a request are delay or an attempt to take a discovery deposition when discovery closed months ago and no attempt was ever

made to notice a discovery deposition.

Applicant's motion should be denied.

Respectfully submitted,

VOLVO TRADEMARK HOLDING AB

By:



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Tel: (202) 663-7909
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Date: December 11, 2014

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **MOTION TO EXTEND TRIAL DATES**
has been mailed this 11th day of December, 2014, via mail and email to:

MICHAEL STEINMETZ
GARSON SEGAL STEINMETZ AND FLADGATE LLP
164 W 25TH STREET #11R
NEW YORK, NY 10001
UNITED STATES
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Leigh Ann Lindquist

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DECLARATION OF LEIGH ANN LINDQUIST

1. I, Leigh Ann Lindquist, am a partner in the law firm of Sughrue Mion, PLLC with an address at 2100 Pennsylvania Avenue NW, Washington, DC 20037.

2. On December 9, 2014, I checked the status of the above proceeding at TTABVUE and noted Applicant's motion titled Motion to Extend Response Dates dated December 4, 2014. I have not received a service copy of this Motion.

3. Attached as Exhibit A is a copy of a FedEx Tracking slip. This slip evidences receipt by Applicant's counsel on November 14, 2014 of Opposer's Notice of Testimony Deposition on Written Questions, Written Questions, and Exhibits dated November 12, 2014

4. On November 20, 2014, Applicant's counsel contacted me via email to request that I agree to a 60-day extension of time for Applicant to serve cross questions to the testimony deposition on written questions. I advised that I believed 60 days was too long an extension but said I would confer with my client.

5. On November 24, 2014, I contacted Applicant's counsel via email to advise that Opposer would consent to a 10-day extension of the deadline for serving cross questions if

Applicant would agree to certain conditions regarding Opposer's testimony deposition on written questions, namely the location of the deposition, before whom the deposition was to be taken, and the signing of the transcript. I further requested that the parties agree to service via email but to maintain the five day mailing rule. I did not receive a reply to my email.

6. Attached as Exhibit B is a copy of Opposer's Responses and Objections to Applicant's Document Requests.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.



Leigh Ann Lindquist

Date: December 11, 2014

Enclosure: Exhibits A and B

EXHIBIT A

FedEx® Tracking

598274001408Ship (P/U) date :
Wed 11/12/2014 7:33 pm

WASHINGTON, DC US

Actual delivery :
Fri 11/14/2014 1:48 pm

NEW YORK, NY US

DeliveredSigned for by: *M.STEINMETZ***Travel History**

Date/Time	Activity	Location
- 11/14/2014 - Friday		
1:48 pm	Delivered	NEW YORK, NY
8:22 am	On FedEx vehicle for delivery	NEW YORK, NY
8:21 am	At local FedEx facility	NEW YORK, NY
- 11/13/2014 - Thursday		
10:55 pm	Departed FedEx location	NEWARK, NJ
9:05 am	Arrived at FedEx location	NEWARK, NJ
- 11/12/2014 - Wednesday		
7:33 pm	Picked up	WASHINGTON, DC
4:49 pm	Shipment information sent to FedEx	

Shipment Facts

Tracking number	598274001408	Service	FedEx 2Day
Weight	13 lbs / 5.9 kgs	Dimensions	12x12x12 in.
Delivered To	Receptionist/Front Desk	Total pieces	1
Total shipment weight	13 lbs / 5.9 kgs	Shipper reference	H00124/LAL/NP
Packaging	FedEx Box	Special handling section	Deliver Weekday

EXHIBIT B

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OPPOSER'S RESPONSES TO APPLICANT'S FIRST REQUEST FOR DOCUMENTS

GENERAL OBJECTIONS

Opposer hereby incorporates its General Objections provided in its Responses to Applicant's First Set of Interrogatories.

RESPONSES

REQUEST NO. 1

Provide documents sufficient to prove Opposer's advertising expenditures for computer tablets.

RESPONSE

See General Objections. Opposer's further objects to this Request as it is unlimited to time or mark.

REQUEST NO. 2

Provide documents sufficient to prove Opposer's advertising expenditures for laptop computers.

RESPONSE

See General Objections. Opposer's further objects to this Request as it is unlimited to time or mark.

REQUEST NO. 3

Provide documents sufficient to prove Opposer's channels of trade are the same as Applicant's. More specifically, provide:

- a. Proof of Volvo automobile sales at www.WolVolv.com and www.Amazon.com
- b. Proof of computer tablet sales through all media avenues.
- c. Proof of Volvo laptop computer sales through all media avenues.

RESPONSE

See General Objections. Opposer's further objects to this Request as it is unlimited to time or mark. Without waiving same, Opposer responds:

- a. Opposer does not sell VOLVO branded automobiles at www.WolVolv.com and www.Amazon.com
- b. Opposer objects to this section of the Request on the grounds that "all media avenues" is an undefined term and is unrelated to channels of trade.
- c. Opposer objects to this section of the Request on the grounds that "all media avenues" is an undefined term and is unrelated to channels of trade.

REQUEST NO. 4

Provide documents sufficient to prove that the classes of Opposer's automobile and Applicant's discount-priced technology purchasers are the same. Provide proof specifically regarding the state of the purchasers';

- i. degree of sophistication
- ii. economic position
- iii. educational achievement

RESPONSE

See General Objections. Opposer further objects to this Request on the grounds that the information requested is irrelevant. Opposer also objects to this Request on the grounds that "Applicant's discount-priced technology" is an undefined term.

REQUEST NO. 5

Provide documents sufficient to prove the degree of consumer care that consumers employ before purchasing Opposer's luxury product line is similar to the consumer care employed before consumers purchase Applicant's offerings.

RESPONSE

See General Objections. Opposer further objects to this Request on the grounds that "Opposer's luxury product line" and "Applicant's offerings" are undefined terms.

REQUEST NO. 6

Provide documents sufficient to prove the resemblance and similarity between Applicant's and Opposer's marks such that customers of normal perceptual abilities would mistake Applicant's mark for Opposer's, or erroneously assume an association or connection of any kind between the two trademarks or trade names.

RESPONSE

See General Objections. Opposer further objects this Request on the grounds that "customers of normal perceptual abilities" and "Applicant's and Opposer's marks" are undefined

terms.

REQUEST NO. 7

Assuming that Opposer's and Applicant's trademarks are not used in connection with identical goods, provide documents sufficient to prove that customers of normal perceptual abilities would mistake Applicant's mark for Opposer's, or erroneously assume an association or connection of any kind between the two trademarks and/or trade names.

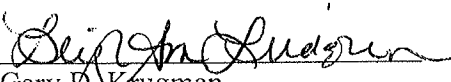
RESPONSE

See General Objections. Opposer further objects this Request on the grounds that "customers of normal perceptual abilities" and "Opposer's and Applicant's trademarks" are undefined terms. Opposer also objects to this request as it calls for speculation.

Respectfully submitted,

VOLVO TRADEMARK HOLDING AB

By:


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Date: July 3, 2014